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DECISION



**THE COMPTROLLER GENERAL
OF THE UNITED STATES**
WASHINGTON, D.C. 20548

FILE: R-190017

DATE: November 15, 1977

MATTER OF: Bakke Bennett Laboratory

DIGEST:

Inadvertent omission of bidder from applicable bidders' list is not reason to cancel solicitation or question award thereunder where there is no evidence of conscious or deliberate effort by procurement activity to preclude bidder from competing and adequate competition results in obtaining reasonable prices.

The Bakke Bennett Laboratory (Bakke) protests the failure of the San Diego Naval Regional Supply Center (NRSC) to solicit it under invitation for bids No. N00244-77-B-0308 and requests that the invitation be canceled since not all qualified contractors were solicited. Had Bakke been solicited, the Government would allegedly have been able to save several thousands of dollars on the procurement. Bakke also requests that it be permitted to compete on the procurement upon its resolicitation.

The facts reported by Bakke concerning its efforts to be solicited were as follows. Bakke contacted the NRSC in May of 1977 and requested that it be placed on the bidders' list for the procurement in question. Bakke again contacted the NRSC twice in July reiterating its request to be placed on the bidders' list. In early August Bakke again contacted the NRSC and was told, in essence, that nothing further had occurred and that the existing contract would probably be extended a month. On August 25, when Bakke again contacted the NRSC to determine the status of the procurement, it was told that the invitation had already been issued and that bids had been opened on August 18. Somehow in sending out the invitation the name of Bakke had been overlooked.

Inadvertent actions of an agency which preclude a potential supplier (even an incumbent contractor) from competing on a procurement do not constitute a compelling reason to resolicit so long as adequate competition was generated and reasonable prices were obtained and there was no deliberate or conscious attempt to preclude the potential supplier from submitting a bid. Valley Construction Company, B-135684, April 19, 1976, 76-1 CPD 266.

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In this case competition existed since three bidders submitted bids on the procurement. While Bakke alleges its prices would have been lower, this does not mean that the prices received were unreasonable. Further, the contracting officer has determined that the prices obtained from the low bidder are reasonable when compared with the competitive prices obtained under the instant invitation and when compared with the prices paid for similar products and services under previous contracts. Finally, the failure to solicit Bakke was not caused by a deliberate or conscious intent to keep Bakke from bidding on the procurement (the procurement was advertised in the Commerce Business Daily), but occurred rather through an inadvertent clerical error.

Accordingly, the protest is denied.


Deputy Comptroller General
of the United States